

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                                 |
|--------------------|---|---------------------------------|
| JAMES A. WILSON,   | § |                                 |
|                    | § | No. 614, 2009                   |
| Defendant Below,   | § |                                 |
| Appellant,         | § | Court Below—Superior Court      |
|                    | § | of the State of Delaware in and |
| v.                 | § | for Kent County                 |
|                    | § |                                 |
| STATE OF DELAWARE, | § |                                 |
|                    | § |                                 |
| Plaintiff Below,   | § | Cr. ID No. 9911012318           |
| Appellee.          | § |                                 |

Submitted: November 16, 2009

Decided: February 23, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGLEY**, Justices.

**ORDER**

This 23<sup>rd</sup> day of February 2010, upon consideration of the appellant’s opening brief, the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), and the Superior Court record, it appears to the Court that:

(1) The appellant, James A. Wilson, filed an appeal from the Superior Court’s October 1, 2009 denial of his “motion for modification and/or review of sentence.” The appellee, State of Delaware, has moved to affirm the Superior Court’s judgment on the basis that it is manifest on the

face of Wilson’s opening brief that the appeal is without merit.<sup>1</sup> We agree and affirm.

(2) In July 2000, Wilson pled guilty in the Superior Court in Kent County on criminal charges and was sentenced (“Kent County sentence”).<sup>2</sup> In September 2001, following a jury trial in the Superior Court in New Castle County, Wilson was convicted of criminal charges and was sentenced (“New Castle County sentence”).<sup>3</sup>

(3) On April 6, 2009, Wilson, through counsel, filed a “motion for modification and/or review of sentence” in the Superior Court in Kent County (“the motion”). The motion referenced both the Kent County sentence and the New Castle County sentence and appeared on the respective court dockets in both counties. The motion sought “review” of Wilson’s “sentence” on the basis that Wilson had “completed [the] Level V portion of his sentence.”

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<sup>1</sup> Del. Supr.Ct. R. 25(a).

<sup>2</sup> Wilson pled guilty to charges of Harassment and Possession of a Firearm by a Person Prohibited and was sentenced to two years at Level V suspended after sixty days for one year at Level III probation. *State v. Wilson*, Del. Super., Cr. ID No. 9911012318, Witham, J. (July 18, 2000) (sentencing).

<sup>3</sup> Wilson was convicted of Trafficking in Cocaine and related offenses and was sentenced to ten years at Level V. *State v. Wilson*, Del. Super., Cr. ID No. 9912006359, Cooch, J. (Sept. 7, 2001) (sentencing). *See also Wilson v. State*, 2002 WL 31106354 (Del. Supr.) (affirming on direct appeal). The sentence was later modified to reflect an effective date of December 9, 1999. *State v. Wilson*, Del. Super., Cr. ID No. 9912006359, Cooch, J. (April 2, 2007) (modified sentence order).

(4) By order dated October 1, 2009, the Superior Court in Kent County denied the part of the motion that concerned the Kent County sentence. This appeal followed.

(5) On appeal, Wilson contends that the Superior Court in Kent County erred when it did not review the New Castle County sentence. Second, Wilson contends that the attorney who filed the motion was ineffective.

(6) Neither of Wilson's claims warrants appellate review. The first claim was previously rejected by the Court in November 2009 when denying Wilson's petition for a writ of mandamus that raised the same claim.<sup>4</sup> The Court will not revisit the issue. The Court also will not consider Wilson's ineffective assistance of counsel claim, which was not raised in the Superior Court.<sup>5</sup>

(7) Finally, the State contends, and we agree, that Wilson's appeal appears to be moot. It appears to the Court that Wilson has completed both the Kent County sentence and the New Castle County sentence and is currently serving the balance of a parole violation sentence.<sup>6</sup>

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<sup>4</sup> *In re Wilson*, 2009 WL 3656799 (Del. Supr.).

<sup>5</sup> Del. Supr. Ct. R. 8.

<sup>6</sup> Wilson was convicted in 1985 on charges of Robbery in the First Degree and related offenses and was sentenced. *Wilson v. State*, 1986 WL 17993 (Del. Supr.) (affirming on direct appeal). See *Wilson v. State*, 2009 WL 3636903 (Del. Supr.) (affirming denial of habeas corpus petition).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice